



In Reply To:

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Lewistown Field Office
Upper Missouri River Breaks National Monument
920 NE Main Street
Lewistown, Montana 59457-1160
<http://www.blm.gov/mt>



Upper Missouri River Breaks National Monument Reserved Water Rights Proposal for Arrow Creek and the Judith River

Commonly asked questions

Question: How were these federal reserved water rights created?

Answer: Federal reserved water rights may be created when federal lands are withdrawn from the public domain (as is the case with this monument). These water rights are for the minimum amount of water reasonably necessary to satisfy both existing and foreseeable future uses of water for the primary purposes for which the land was withdrawn. These reserved water rights apply only to the Judith River and Arrow Creek and were established via the proclamation (signed on January 17, 2001); they cannot be lost over time or from non-use; and only Congressional action can reverse them. The water rights exist so long as the federal reservation exists.

Question: Is the BLM seeking additional water rights on the Upper Missouri River?

Answer: No, the Montana Legislature approved a water compact for the Upper Missouri River in 1997. These reserved water rights involve only Arrow Creek and the Judith River.

Question: How much water do these rights involve?

Answer: The quantity of these water rights will be determined through negotiations with the Reserved Water Rights Compact Commission. The BLM is proposing an in stream flow on Arrow Creek of 5 cubic feet per second between March and July and an in stream flow on the Judith River that is concurrent with, but not in addition to, the existing water right held by the Montana fish, Wildlife and Parks (160 cfs).

Question: What is the Reserved Water Rights Compact Commission?

Answer: The Reserved Water Rights Compact Commission is the body designated the responsibility of representing the State of Montana in such discussions. The nine Commission members are designated by the Governor, Legislature, and Attorney General. The results of the reserved water rights negotiation must be approved by the Montana Legislature as a Water Compact.

Question: Why are these water rights necessary?

Answer: The reserved water rights are intended to maintain fully functioning cottonwood gallery forest ecosystems and other water dependent objects of biological interest in this monument.

Question: Does the BLM have any authority for managing cottonwoods on private land?

Answer: No, the BLM has no authority to manage for cottonwoods on private land. The agency will not approach landowners about potential land acquisitions along the river or any other portion of the monument. However, if a willing landowner or his/her representative offers an acquisition, the BLM would consider the opportunity and if completed, the acquired land would become part of the monument.

Question: Will the BLM approach private landowners about purchasing their water rights?

Answer: No, the BLM will not pursue acquiring water rights from private landowners, unless approached by a landowner or his/her representative. In such a case, the acquisition of water rights from willing sellers would be considered to maintain and/or improve the hydrologic conditions and restore instream flows on tributaries to Arrow Creek and the Judith River.

Question: How will these reserved water rights impact senior water rights?

Answer: No existing, senior water rights (prior to the date of the proclamation) will be impacted. Under the Montana Water Use Act, senior state-based water right holders will have priority over the federal reserved water right of the Monument. In times of shortage, senior state-based users will not be required to curtail use in order to protect the Monument water right.

Question: Can junior water rights be impacted by these reserved rights?

Answer: Existing water rights junior to the date of the proclamation may be impacted if, in times of shortage, the Monument needs to make a call in order to obtain its federal reserved water right.

Question: Why wasn't the reservation process completed during the monument planning process?

Answer: Because of the need for additional data, the reservation process could not be completed during the development of the final RMP. The reserved water rights process typically takes several years to complete. The Compact Commission plans to have a draft compact to take to the 2013 Montana Legislative session.

Question: Will the BLM comply with existing state water laws.

Answer: Yes, the BLM will comply with all state and federal water laws.

#####